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Arthur Neal, Director of Program Administration
National Organic Program, USDA-AMS-TMP-NOP
1400 Independence Ave. S.W.
Room 4008-So., Ag Stop 0268
Washington, DC 20250

Email Comments: National.List@usda.gov

Fax Comments: 202-205-7808

Dear Mr. Neal and National Organic Program,

Please accept these written comments on the proposed rule published in the federal register on September 16, 2005 – docket number TMD-04-01.

Topics: Egg White Lysozyme, L-Malic Acid, and Microorganisms.

Section: 205.605(a)

Comment: We support the addition of Egg White Lysozyme, L-Malic Acid and Microorganism to Section 205.605(a) of the National List.

Topics:

Activated charcoal – annotation: only from vegetative sources; for use only as a filtering aid in handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

Ammonium hydroxide – annotation: for use only as a boiler water additive until October 21, 2005. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

Cyclohexylamine - annotation: for use only as a boiler water additive for packaging sterilization. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

Diethylaminoethanol - annotation: for use only as a boiler water additive for packaging sterilization. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

Octadecylamine - annotation: for use only as a boiler water additive for packaging sterilization. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

Peracetic acid/Peroxyacetic acid – annotation: for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

Tetrasodium pyrophosphate – for use only in meat analog products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

Section: 205.605(b)

Comment:

From October 2000 through April 2004 the NOSB voted to recommend that **Activated Charcoal, Ammonium hydroxide , Cyclohexylamine, Diethylaminoethanol, Octadecylamine Peracetic acid/Peroxyacetic acid and Tetrasodium pyrophosphate** be added to section 205.605(b) for use in handling agricultural products labeled “organic”. In proposed rule docket number TMD-04-01 the Secretary amends the NOSB recommendation for use only in the “made-with” label and prohibits their use in the “organic” label.

If this recommendation is enforced then severe commercial disruption will take place for current products certified under the “organic” label. Up to date, some of these materials may have been allowed under the Food Contact Substance Policy dated December 12, 2002 (see NOSB recommendation dated April 15, 2004). For example;

- Activated Carbon is used as a filtering agent during the processing of organic white grape juice concentrate. Organic White Grape Juice is used as a sweetener in many products such as beverages; candies, yogurts, chocolates, etc. ; **Organic Ingredients presently has \$2 million dollars in sales contracts for white grape juice concentrate (as “organic”) in 2005-2006.**
- Peroxyacetic acid is currently used in most food processing facilities as a sanitizer for fresh fruits/vegetables and on processing equipment.
- Boiler Chemicals are used to temper glass during the manufacturing of most products packaged in glass packaging.

While we acknowledge that the Secretary and National Organic Program must recognize and comply with the court order regarding Arthur Harvey v. Veneman/Mike Johanns dated June 9, 2005. We don’t agree that any action regarding 205.605(b) should be taken until mandated by the Courts. The final judgment and order states that;

“So as to prevent consumer confusion, commercial disruption and unnecessary litigation, the Secretary shall temporarily exempt nonconforming products placed in the stream of commerce as organic, while new rules are being promulgated and afterward, while producers, handlers and processors come into compliance with

them. The new implementing rules shall become effective two years after the date of this order and judgment (June 2007), after which no non-conforming products may enter the stream of commerce.”

We strongly encourage the Secretary and National Organic Program to be consistent with the recommendations of the National Organic Standards Board and with the Court order to allow these materials to be used in the “organic” label until which time the Secretary is mandated to implement new rules as a result of Harvey v. Veneman/Johanns.

Sincerely,
Joseph Stern

President